

Senate Bill 237
April 3, 2013
Presented by Rebecca Dockter
House Natural Resources Committee

Mr. Chairman and members of the committee, my name is Rebecca Dockter, and I am the Chief Legal Counsel for Montana Fish, Wildlife and Parks (FWP). I am here today on behalf of the Director, and am in opposition to SB 237.

I recognize that several of FWP's past land acquisitions have been controversial and the subject of much attention and several other bills during this legislative session. I want to assure you that the department, FWP Commission and Administration have heard the concerns that have been raised and that the message has been received. We have also already begun initiating changes to the way the department operates. In his letter to the new FWP Commissioners, Governor Bullock directed the Department and FWP Commission to undertake:

"... a critical assessment of the land holdings and upcoming land acquisitions, both fee title purchases and easements. This evaluation should consider a wide range of factors, including operation and maintenance, good neighbor policies, management priorities, funding needs, and any other management obligations or liabilities. Again, public discussion must be an important element of the review process."

In addition, the Department has either testified in support of or said we could live with the following changes to the Department's land acquisition process that have been proposed in other legislation this session:

- SB 344 by Senator Vincent to require mandatory scoping in the environmental review process for land acquisitions 640 acres or larger;
- HB 404 by Representative Flynn which shifts 25% of the funding in Habitat Montana from land conservation to the block management program for hunting access; and
- A HB 5 provision to require the department to first consider leases, second conservation easements and lastly fee title acquisitions when spending our Habitat Montana funding.

We believe, however, that for all practical purposes, the No Net Gain requirement in SB 237 is not implementable and places a moratorium on land acquisition by FWP, with the exception of fishing access sites under five acres in size.

FWP's mission includes the conservation of fish and wildlife habitat and the acquisition of sites for public recreation. The Department purchases land for fishing access sites, fish and wildlife habitat, hunting opportunity and state parks. We have attempted to sell Department land in the past, and found it very difficult to do. What we have learned is that once the public begins recreating on a fishing access site, state park or wildlife management area, that parcel gains a constituency. And those constituents typically don't want to see us dispose of that property.

Some people argue that the "No Net Gain" requirement in the land banking program for DNRC School Trust lands has worked well, so why not also apply it to FWP? Let me explain why.

This requirement works for School Trust lands because of the configuration of their landownership that is based primarily upon acquiring sections 16 and 36 within a township from the federal government. I'm passing out a map to illustrate this ownership pattern that often has lead to a checkerboard pattern of blue School Trust land intermingled with private land. In the case of this map for a land banking proposal, it makes sense to both parties for DNRC to exchange out of their isolated parcels within the Dearborn Ranch.

In contrast, here's a map of FWP's landownership in Southwest Montana. As you can see, we typically own either large blocks of land with little or no intermingled private ownership, such as Gravelly-Blacktail Wildlife Management Area in the lower left-hand corner, or inholdings within larger tracts of other public land, such as the Gallatin Wildlife Management Area, just to the left and above the legend on the map. A "No Net Gain" requirement for FWP would require us to sell some of these lands, which were acquired because they meet our mission of conserving critical winter range habitat, and which the public actively uses, in order to acquire something else.

It is also important to note that FWP pays taxes on fee title properties it owns whereas DNRC does not pay taxes on school trust lands.

Mr. Chairman and members of the Committee, SB 237 goes too far and for all practical purposes would be a moratorium on FWP land acquisition except for fishing access sites under five acres. We've heard the concerns about the amount of land we acquired in fee title over the last few years, and have agreed to live with other restrictions proposed by the Legislature this session.

With all due respect to Senator Brenden, we recommend a "Do Not Pass" on SB 237.

Montana Fish, Wildlife and Parks Wildlife Management Areas Listed by Region.

| Region 1 | ACRES |
|----------------------|--------------|
| Bull River | 1,330 |
| Kootenai Falls | 172 |
| Kootenai West | 960 |
| Kootenai Woods Ranch | 1,417 |
| Mount Silcox | 1,552 |
| Ninepipe | 3,880 |
| Pablo | 416 |
| Ray Kuhns | 1,530 |
| Roundhorn | 27 |

| Region 2 | |
|----------------------|--------|
| Aunt Molly | 1,184 |
| Blackfoot-Clearwater | 43,761 |
| Blue Eyed Nellie | 164 |
| Calf Creek | 2,333 |
| Fish Creek | 34,573 |
| Garritty Mountain | 9,475 |
| Lost Creek | 1,403 |
| Marshall Creek | 24,170 |
| Mount Jumbo | 120 |
| Nevada Lake | 740 |
| Spotted Dog | 37,877 |
| Stucky Ridge | 296 |
| Threemile | 6,089 |
| Warm Springs | 1,563 |

| Region 3 | |
|--------------------|--------|
| Canyon Creek | 2,210 |
| Canyon Ferry | 5,129 |
| Dome Mountain | 4,789 |
| Fleecer Mountain | 7,394 |
| Gallatin | 8,611 |
| Gravelly-Blacktail | 17,781 |
| Lake Helena | 157 |
| Madison-Bear Creek | 6,575 |
| Madison-Wall Creek | 7,067 |
| Mount Haggin | 58,188 |
| Robb-Ledford | 28,097 |

| Region 4 | |
|-----------------|--------|
| Beartooth | 31,947 |
| Beckman | 6,568 |
| Blackleaf | 10,397 |

| | |
|---------------|--------|
| Ear Mountain | 3,047 |
| Freezout Lake | 11,466 |
| Judith River | 9,408 |
| Marias River | 5,845 |
| Smith River | 3,312 |
| Sun River | 4,954 |

Region 5

| | |
|-------------|-------|
| Big Lake | 1,964 |
| Grant Marsh | 2,831 |
| Haymaker | 1,321 |
| Silver Run | 638 |
| Yellowstone | 3,776 |

Region 6

| | |
|--------------------|-------|
| Bowdoin | 156 |
| Dodson Creek | 39 |
| Dodson Dam | 735 |
| Dodson South Canal | 160 |
| Fox Lake | 1,546 |
| Fresno Reservoir | 2,677 |
| Fresno Tailwater | 125 |
| Hindsdale | 255 |
| Rookery | 2,277 |
| Vandalia | 310 |

Region 7

| | |
|-----------------|-------|
| Amelia Island | 239 |
| Badlands | 2 |
| Elk Island | 1,949 |
| Isaac Homestead | 1,169 |

Total Acres of Wildlife Management Areas = 430,143 acres

(footnote: many of the above WMA acquisitions were purchased before Habitat Montana was formally adopted in 1987, with some dating back to at least 1945. Below is the breakdown of acres conserved with Habitat Montana program from 1987 through 2012: As of December 2012, FWP holds 46 Habitat Montana wildlife conservation easements covering 233,023 acres and costing approximately \$26.6 million. Fee title ownership purchased through the program totals 115,209 acres, costing \$41.6 million in Habitat Montana funds. Habitat Montana projects are 63% easements, 31% fee title, and 6% lease. Total FWP wildlife lands would have a different breakdown of percentages.)